

MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD)

INTRODUCTION

On November 6, 2012, the voters of Massachusetts approved the “ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA” (105 CMR 725), and the law went into effect seven weeks later on January 1, 2013. This left little time for cities and towns in the Commonwealth to adapt and prepare for possible applications for medical marijuana dispensaries in their areas, and the effects it could have on abutters. Many municipalities, including Egremont, passed moratoriums on granting approval of a facility in their town, to allow the state to finalize the rules and regulations, and to allow town boards to assess the possible impacts.

The state law (which can be viewed and downloaded at: www.mass.gov/eohhs/docs/dph/regs.105cmr725) addresses in some detail the registration, certification, operational requirements, security and inspection of Registered Marijuana Dispensaries ((RMDs) but it grants the individual cities and towns some leeway to supersede the state law as far as siting, setbacks, and local zoning ordinances are concerned (See Section 725: 110 [14] –page 37):

“A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.” A RMD is defined as: “...a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses (including development of related products such as edible MIPs (marijuana infused products), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.”

It is to these conditions that the Egremont Planning Board primarily addressed its Draft of the Medical Marijuana Overlay District. The Board felt that, since Egremont presently has only one zone, it was important to insure that the setbacks of a proposed RMD be at least 1,000 feet from a school, daycare center, or other facilities outlined in Section 5.5.5.2 of the proposed new bylaw; and at least 500 feet from any residence or other non-commercial use. The Board also worded the new bylaw so as to distinguish between a Registered Marijuana Dispensary, which can cultivate marijuana, and a Registered Marijuana Dispensary Center (RMDC) , which can only dispense the products. (See Section 5.5.4.2 of the proposed bylaw).

The proposed MMOD bylaw also adds some additional language to the state law in the areas of building footprint, signage, security, and procedures to be followed in the event that the RMD is abandoned or discontinued.

WHAT THE STATE REGULATIONS COVER and WHAT OUR PROPOSED BYLAW COVERS

The Massachusetts CMR 725 (Implementation of an Act for the Humanitarian Medical Use of Marijuana) is a thorough policy which governs:

- Who can prescribe medical marijuana
- Who can qualify for a medical marijuana prescription
- Who can be a dispensary agent
- Who can apply for a license to own and operate a medical marijuana dispensary
- How a medical marijuana dispensary can be operated
- Medical marijuana dispensary security measures
- What happens to a dispensary that has violated the regulations.

The Egremont Planning Board has drafted a zoning bylaw that would govern:

- The documents and information required for the dispensary to receive a special permit in Egremont
- The requirement of a special permit issued by the Egremont Planning Board
- The Egremont MMOD Bylaw separates out the uses of a medical marijuana facility, recognizing that strictly dispensing a controlled substance is a different use from the cultivation, processing and dispensing all together. The Egremont bylaw provides definitions for two types of facilities: a Registered Marijuana Dispensary (RMD) and Registered Marijuana Dispensary Center (RMDC). They are treated differently in the bylaw.
- Compensation by the dispensary agent for any consultant work required to review the site plan and other information provided to the Planning Board for the issuance of a special permit
- Where in the community a medical marijuana dispensary could be sited in relation to specific, adjacent uses
- How large a RMD or RMDC can be in Egremont.
- How close to special uses such as a church, school, or daycare facility (uses which involve children) an RMD or RMDC can be
- Hours of operation
- Responsibility of site and facility clean-up by dispensary owners should they close for any reason